

## NOTICE OF INVESTIGATION

D.T.E. 03-59

August 26, 2003

Proceeding by the Department of Telecommunications and Energy on its own Motion to Implement the Requirements of the Federal Communications Commission's Triennial Review Order Regarding Switching for Large Business Customers Served by High-Capacity Loops

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The Department of Telecommunications and Energy ("Department"), on its own motion, has opened a proceeding to implement the requirements of the Federal Communications Commission's ("FCC") Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of the Telecommunications Act of 1996, CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, FCC 03-36 (rel. August 21, 2003) ("Triennial Review Order"). Among other requirements contained in the Triennial Review Order, state public utility commissions have 90 days from the effective date of the Order to conduct a proceeding to allow carriers to rebut the FCC's conclusion that switching for large business customers served by high-capacity loops, such as DS-1, will no longer be unbundled based on a national finding of "no impairment." This proceeding is docketed as D.T.E. 03-59 and will inquire into the ability of competitive local exchange carriers ("CLECs") to offer local service to large business customers without access to Verizon New England, Inc. d/b/a Verizon Massachusetts' ("Verizon") switching facilities. If no Massachusetts CLEC seeks to have the Department rebut the finding, the Department concludes that to attempt to do so without any CLEC involvement might be an unnecessary use of Department resources. Therefore, at least one CLEC operating in Massachusetts must file with the Department a one-paragraph "Request to Proceed" in this docket by 5:00 p.m. on September 5, 2003. If no CLEC files a written "Request to Proceed" by that time, the Department will determine whether to adopt the FCC's finding concerning CLECs' access to switching for customers served by high-capacity loops without undertaking any additional procedure.

Those interested in participating in the Department's proceeding in this docket may submit written comments on the scope, nature, and timing of the Department's inquiry in this proceeding. The Department requests that those interested in participating in the Department's proceeding indicate in written comments whether this proceeding should be conducted as an "adjudicatory proceeding" as defined in G.L. c. 30A, § 1(1), or whether some other role for the Department is warranted, such as the Department's consultative role in our evaluation of Verizon's compliance with the requirements in 47 U.S.C. § 271 in D.T.E. 99-271. In addition, interested persons seeking to participate in the Department's proceeding must file a brief (1-2 pages) letter explaining with specificity their interest and the extent to which they would like to participate. Written requests to participate and written comments must be filed

with the Secretary of the Department at the following address by 5:00 p.m. on September 16, 2003:

Mary L. Cottrell, Secretary  
Re: DTE 03-59  
Department of Telecommunications and Energy  
One South Station, Second Floor  
Boston, MA 02110

Receipt by the Department – not mailing – constitutes filing and determines whether a request for participation has been timely filed.

In addition, the Department requests that all comments and requests to participate be submitted by electronic mail to [Jesse.Reyes@state.ma.us](mailto:Jesse.Reyes@state.ma.us) and [dte.efiling@state.ma.us](mailto:dte.efiling@state.ma.us) using one of the following methods: (1) by e-mail attachment; or (2) on a 3.5" disk, IBM-compatible format. The text of the e-mail must specify: (1) the docket number of the proceeding (D.T.E. 03-59), (2) the name of the person or company submitting the filing, and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and phone number of a person to contact in the event of a question about the filing. Text responses should be written in either WordPerfect (naming the document with a “.wpd” suffix), in Microsoft Word (naming the document with a “.doc” suffix), or as an Adobe PDF file (naming the document with a “.pdf” suffix). Data or spreadsheet responses should be compatible with Microsoft Excel. All comments and requests to participate submitted in electronic format will be posted on the Department’s website: <http://www.mass.gov.dpu>.

The Department will hold a procedural conference on September 25, 2003, beginning at 10:00 a.m. at the Department’s offices, to establish a procedural schedule for the orderly conduct of the investigation, and, if necessary, to further define the scope of the proceeding.

By Order of the Department,

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MARY L. COTTRELL, SECRETARY